

# Notice of Allowability

Application No.

10/726,099

Examiner

Mike Rahmjoo

Applicant(s)

ENGELBART ET AL.

Art Unit

2624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 12/2/03.
2. ☒ The allowed claim(s) is/are 35-37.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date 5/9/07
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1- 24, drawn to determining inconsistency characteristics of a composite structure, classified in class 382, subclass 149.
- II. Claims 25- 37, drawn to summing the widths of inconsistencies, classified in class 382, subclass 192.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because claims 25- 37 has a separate utility such as summing the widths of inconsistencies and feature counting. The subcombination (claims 1- 24) has separate utility such as determination of inconsistency characteristics of a composite structure.

The examiner has required restriction between combination and subcombination inventions. Where applicant elects a subcombination, and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in

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accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with Mr. Elchuk on 06/08/2007 a provisional election was made without traverse to prosecute the invention of II, claims 25- 37. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-24 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

### **EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Elchuk on 06/08/2007.

The application has been amended as follows:

Please cancel claims 1-34.

### ***Allowable Subject Matter***

Claims 35- 37 are allowed.

The following is an examiner's statement of reasons for allowance:

None of the prior art, either singularly or in combination, fairly teaches or suggests applicant's claimed invention wherein applicant recites "summing the widths of the inconsistencies within the reference area to produce a width total."

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US PAP 2003/ 0230178 teaches a system and method for performing operations such as cutting on sheet material such as cloth wherein the sheet material is scanned at an inspection station to determine the existence and location of flaws in the material, the material is transferred to a conveyor where operations such as cutting are performed on the sheet material as it is moved by the conveyor, and the speed of the conveyor and the speed, direction and mode of the operations are controlled all according to a predetermined pattern of operation for the sheet material and the pattern can be re-nested or adjusted in accordance with the existence and location of flaws in the material as determined by the scanning. The operations are performed by controlled gantry-style cutters, and preferably two such cutters are employed wherein a control determines the conveyor speed and determines the portions of the cutting operation to be performed by the respective cutters. The conveyor table provides vacuum or suction hold-down of the material, includes an outer belt of perforated flexible material and an inner belt of rigid link structure wherein the inner belt is moved by the conveyor drive means and the outer belt is moved by engagement with the inner belt. A controlled tool assembly on the head of each gantry-style cutter moves a tool, such as a cutting blade, into and out of engagement with and in different orientations with respect to the sheet material.

US PAP 2002/ 0176617 teaches a system and method for detecting defects in a porous material web or dense film applies differential pressure across the material web or film. The pores and defects in the material web or the defects in the dense film may be filled with a liquid. In embodiments of the invention, differential pressure may be applied using a vacuum roller or other vacuum pressure application device.

When the differential pressure applied to the material web exceeds the bubble point pressure of a defect, the liquid within that defect may be removed. An image, such as a thermal or photographic image, of the material web is captured after the differential pressure has been applied across the material web or film. Removal of the liquid from a defect is indicated in the image, allowing defects to be detected.

US PAP2004/ 0194506

US Patent 6184924

### **Inquiry**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mike Rahmjoo whose telephone number is 571-272-7789. The examiner can normally be reached on 8 AM- 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matt Bella can be reached on 571-272-7778. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mike Rahmjoo

June 8, 2007



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